



Country by Country Reporting obligations until year-end

Austrian multi-national entities obliged to file country by country reports based on the respective Austrian provisions are obliged to file the report until Dec 31, 2017 (provided that the balance sheet date is December 31). Furthermore, a yearly notification needs to be filed until the balance sheet date with the tax office for all Austrian entities, which are part of a foreign multi-national group.

Werner Rosar / Sabine Bernegger

VAT Qualification of vouchers as of January 1st, 2019

According to the EU Directive of June 27, 2016 (amending EU VAT Directive 112/2006/EC) a specific and uniform VAT treatment for vouchers which are issued after December 31, 2018, is planned. Nevertheless, the rules of this directive are only applicable for vouchers which can be used for redemption against goods and services. If the voucher only entitles the holder to a discount but does not grant the right to receive such goods or services, the VAT treatment of these vouchers should not be effected by the rules of this directive.

For the treatment of vouchers in accordance with the amendment of the VAT directive, a distinction between two types of vouchers is necessary. The directive determines that single-purpose vouchers are vouchers where the place of supply or service and the VAT due on those goods or services are known at the time the voucher is issued. According to the Directive, VAT should be charged for every transfer and the issue of a single-purpose voucher, if the transfer of the voucher is done by a taxpayer who acts in his own name. In the case of multi-purpose vouchers VAT should only be charged upon redemption. Therefore the transfer of multi-purpose vouchers should not be taxed either. The Directive has not yet been implemented into the Austrian VAT act.

Esther Freitag

Opinion of Advocate General Yves Bot on triangular transaction pursuant to Article 25 Austrian VAT Act: EC Sales Listings should not be qualified as a material requirement for triangular transactions

On 30 November 2017, the Opinion of Advocate General Yves Bot related to the case of Hans Bühler (C-580/16) was published. For the first time, the ECJ has to deal with the requirements for the application of the triangular business simplification regime in accordance with Art. 141 VAT-Syst. Provided that the ECJ follows the Opinion of the Advocate General, effects on the Austrian implementation provision for triangular transactions in Art. 25 UStG have to be expected.

Esther Freitag / Draga Turic

Exemptions on exportation — Supply of services directly connected with the exportation or the importation of goods

The ECJ dealt in the judgement of 29th June 2017 ([C-288/16](#), „L.Č.“ IK) with the following question: Has Article 146(1)(e) of the VAT Directive 2006/112/EC to be interpreted that the exemption laid down therein is applicable only where there is a direct legal connection between the services provider and the consignee or the consignor of the goods. According the ECJ, it follows from the wording and from the objective of Article 146(1)(e) of VAT Directive 2006/112/EC that the provision must be interpreted in a way that the existence of a direct connection entails that those services are supplied directly to the consignor or the consignee of those goods.

Esther Freitag

ECJ on applicable social security in case of cross-border work activities

The ECJ recently had to decide on the applicable legislation for social security in a case where a Dutch national residing in Belgium and employed in the Netherlands worked only approximately 6.5 % of his total working time in Belgium. Notably, it was questionable whether the work activities should be regarded as carried out in the Netherlands only or in both countries. The ECJ held that the Dutch national cannot be considered to be normally employed in the territory of two Member States.

Alfred Shubshizky

Alignment of workers and employees

In the last session before the new election of the National Council, fundamental changes in labor law were passed, the primary purpose was to harmonize the legal status of workers and employees. These new regulations partly will come into effect on 1. January 2018. Beginning from 1. July 2018, the continued remuneration of employees will be harmonized with the system of continued pay for workers in accordance to the EFZG (Entgeltfortzahlungsgesetz). The notice periods of workers and employees will not be adjusted until 2021.

Margit Müllner / Carl-Georg Vogt / Alfred Shubshizky

Consideration of other remunerations with regard to the maximum credit amount

In case tax relief based on the applicable Double Tax Treaty has to be granted via the credit method, the foreign tax credit is limited by the maximum tax credit.

The Austrian Administrative Supreme Court has now clarified that not only the compensation taxed at progressive tax rates but also those taxed at fixed tax rates have to be considered for the determination of the maximum creditable amount.

Christiane Bischoff / Alfred Shubshizky

New case law on the distinction between contract for work and temporary employment in cross border situations

According to the previous settled case law, it was already possible to assume that there would be a personnel leasing within the meaning of the AÜG if a contract for work also contained only one of the indications of a personnel leasing defined by the law. This is not in accordance with the case law of the ECJ. For this reason, the Austrian Administrative Supreme Court has decided that an overall assessment is necessary for the delineation and that it is also necessary to examine whether the contractor is to be responsible for a performance on which the performance remuneration depends.

Alfred Shubshizky / Karin Mayrhofer